

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Petition of
Titus County, Texas

For Modification of the Television Market
Of Stations:

KLTV (ABC), Channel 7 Tyler/Longview, Texas

KETK (NBC), Channel 56, Jacksonville, Tyler/Longview,
Texas

KFXK (FOX) Channel 51, Longview, Texas

KYTX (CBS) Channel 19, Nacogdoches, Texas

KTVT (CBS) Channel 11, Dallas, Texas

With Respect to Dish Network and DIRECTV

To: Chief, Media Bureau

PETITION FOR SPECIAL RELIEF

Titus County, Texas, pursuant to Section 338 of the Communications Act and Sections 76.7, 76.59 and 76.66 of the Commission's rules, hereby requests (hereinafter, the "Petition") that the television markets of
KLTV (ABC), Channel 7 Tyler/Longview, Texas
KETK (NBC), Channel 56, Jacksonville, Tyler/Longview, Texas
KFXK (FOX) Channel 51, Longview, Texas
KYTX (CBS) Channel 19, Nacogdoches, Texas

KTVT (CBS) Channel 11, Dallas, Texas, Referred to as the "Stations" are modified to include Titus County (the "County") in northeast Texas with respect to satellite TV provider DISH Network ("DISH") and satellite TV provider DIRECTV ("DIRECTV"). The County has long been assigned by Nielsen to the Shreveport, Louisiana designated market area ("DMA"). As such, the County has been "orphaned" by Nielsen due to its assignment to an out-of-state DMA and has been deprived of the ability to receive from a satellite carrier its preferred in-state television broadcast stations. Consumers in the County have been unable to receive from a satellite carrier important news from their own local cities, nor emergency information quickly and accurately in the County. Further, residents have had far fewer opportunities to view televised news, sports, weather, politics and others things of public interest within and throughout their own state.

The STELA Reauthorizations Act of 2014 ("STELAR") empowered the Federal Communications Commission ("FCC or "Commission") to modify a television broadcast station's local market when it would, among other things, "address satellite subscribers' inability to receive in-state programming in certain areas." This Petition thus falls within Section 338's market modifications provision, which allows the Commission to "include additional communities with [a station']...to better effectuate the purposes of this section."

For the reasons explained below, the County requests that the Commission modify the Stations' local markets, as defined in 17 U.S.C. & 122(j), to include the County with respect to carriage by DISH and DIRECTV. The County is governed by the constitutionally established Titus County Commissioner's Court and all actions requested herein are approved by the governing body by formal agenda and vote of the members. The presiding officers of Texas County Commissioner's Courts are the Constitutional County Judges and County Commissioners, and therefore the duly elected County Commissioner signs this petition below as authorized by the governing body. Counties are exempted from the filing fee for said Petition.

1. THIS PETITION SATISFIES THE STATUTORY FACTORS

As required by STELAR, the Commission determines whether to grant a market modification based on consideration of five statutory factors. These factors reflect the four factors previously applicable to market modifications in the cable context, plus an additional factor to assess "whether modifying the local market of the television station would promote consumers' access to television broadcast station signals that originate in their State of residence." The five factors are:

1. Whether the station or other stations located in the same area have been historically carried on:

- (a) the cable system or systems within that community; and (b) the satellite carrier or carriers serving that community;
2. Whether the television station provides coverage or other local service to that community;
 3. Whether modifying the local market of the television station would promote consumers' access to television broadcast station signals that originate in their state of residence;
 4. Whether any other television stations that are eligible to be carried by a satellite carrier in the community in fulfillment of the requirements provides news coverage of issues of concern to the community or provides carriage or coverage of sporting and other events of interest to the community; and
 5. Evidence of viewing patterns in households that subscribe and do not subscribe to the services offered by multichannel video programming distributors within the areas served by the multichannel video programming distributors in the community.

A. This Petition Satisfies the Third and Most Important Factor By Bringing In-State Local Broadcast Stations to Consumers Who Historically Have Been Unable to Receive It From a Satellite Carrier

Where, as here, the purpose of the market modification is to bring a previously unavailable (via satellite carrier) in-state local broadcast stations to a community, the third-factor should carry significant weight in the Commission's analysis. Today, because the County is assigned to the Shreveport, Louisiana DMA, local broadcast content available by satellite is oriented to the interests of a different state. The Stations are licensed in the Tyler/Longview, Jacksonville, Nacogdoches and Dallas, Texas DMA, which are in the same state as the County. As the Titus County Commissioners have previously explained, "This is about emergency news, weather and local interest stories." The process will allow the county to access news, politics, sports, emergency information and other television programming from its own area.

The Petition therefore satisfies the third factor by delivering in-state local broadcast stations from Tyler/Longview, Jacksonville, Nacogdoches and Dallas, Texas, over DISH'S and DIRECTV'S satellite TV service to consumers in the County who have previously been unable to receive it from DISH and DIRECTV. As explained, this third in-state factor should receive enhanced weight when the Commission considers market modifications petitions.

II. EVIDENTIARY SHOWING

The County submits evidence as explained below responsive to the evidentiary requirements in the Commission's rules.

- With respect to Factor 1, Commission rules require that market modification petitions include "cable system or satellite carrier channel line-up cards or other exhibits establishing historic carriage [of a given station], such as television guide listings." The evidence submitted is a basic lineup card of coverage.
- With respect to Factor 2, attached is a map illustrating the location of the County and indication the Stations' coverage area based on over-the-air signal strength.
- With respect to Factor 3, the Petition includes many comments and letters indicating consumer public support for market modification.
- Although market modifications generally require information on "shopping and labor patterns in the local market," such data should not impact any decision about whether or not residents of the County should be able to receive Texas based local broadcast stations by satellite. Nonetheless, residents of the county will benefit from being able to receive an in-state local broadcast stations from Tyler/Longview, Jacksonville, Nacogdoches

and Dallas because the station provides news, state political coverage, sports and other information that is important to them as Texas residents. Therefore, to the extent necessary, we respectfully request a waiver of this item as such information is not available to the County and offers little to no value to the Commission in assessing the merits of this petition.

- With respect to Factor 4, the County provides a listing of Texas Sporting Teams that are preempted in the County for coverage of Louisiana teams.
- With respect to Factor 5, Commission rules require that market modification petitions include “published audience data for the relevant station showing its average all day audience...for both multichannel video programming distributor (MVPD) and non-MVPD households.” As discussed above given the lack of available historical carriage of the Stations in the County to the extent necessary, we respectfully request a waiver of this item.

Grant of this Petition would enable DISH and DIRECTV subscribers in the city of Mount Pleasant to receive the Station, which offers local-oriented weather, news, sports, political coverage, and advertising, among other things, through their satellite TV package. As our documentation and

letters portray, the additional coverage requested is also a matter of public safety of our constituents.

B. The Remaining Factors Support This Petition

The first, second, and fifth factors all relate to historical or current opportunity to view the State in the County (the first and second factors), and whether the residents of the County have availed themselves of such opportunities (the fifth factor). Since the purpose of STELAR was to facilitate access to in-state broadcast programming, neither a lack of historical carriage or coverage, nor a commensurate lack of historical viewing patterns for the Station, should weigh against the requested market modification. Because the County has long been assigned by Nielsen to an out-of-state DMA, STELAR's market modification provision marks the first opportunity in many years for the County to receive the Station's signal over satellite. Given this lack of carriage, residents of the County have had little opportunity to view, via satellite TV, an in-state network-affiliated station that this Petition intends to remedy. Regarding the fourth factor, the County is familiar with Shreveport broadcast stations that should deliver local content, but it is unaware of another in-state local broadcast station carried by a satellite provider in the County that offers Mount Pleasant and Texas-oriented news coverage of issues of concern to the degree expected by residents of the County.

III. TECHNICAL AND ECONOMIC FEASABILITY

On June 21, 2016 and April 8, 2019 the County sent to DISH a pre-filing coordination letter pursuant to 47 C.F.R. & 76.59 (e) of the Commission's rules DISH responded on August 15, 2016 ("DISH Response"), but Titus County never received the letter but a copy of the letter on June 18, 2019 obtained in a letter that based on DISH's current knowledge and satellite coverage capabilities, factors exist that render the provision of the Stations in the County to be infeasible pursuant to 47 C.F.R. & 76.59 (e).

On June 21, 2016 and April 8, 2019 the County sent to DIRECTV a pre-filing coordination letter pursuant to 47 C.F.R. & 76.59 (e) of the Commission's rules with no response from DIRECTV. Although DIRECTV responded favorably to Harrison and Panola Counties that stated that no factors were identified that rendered the provision of the Stations in the County to be "economically infeasible" or "technically infeasible" pursuant to 47 C.F.R. & 76.59 (e).

Carriage of Texas television in Titus County, Texas is an issue of utmost importance to the citizens of our community. In that regard, attached is more documentation in support of Texas stations that encouraged the Titus County Commissioners, the governing body of the county, to file this petition.

Congress authorized STELAR to provide a common sense solution that will benefit our constituents that are disenfranchised by the living the “orphaned” Titus County, Texas and other counties across the nation similarly situated.

Our U.S. Senator John Cornyn concurs in his letter of support “... the Titus County Petition receives swift attention and that the agency moves forward towards a quick resolution of this matter, as the FCC recently acted with neighboring Harrison County, Texas and Panola County, Texas.”

Likewise, Representative Hefner is very familiar with the inability of his Titus County, Texas constituents to receive in-state broadcasts and supports local programming.


Finally, a letter of support from Texas State Senator Bryan Hughes showing support for the petition in that “...only makes sense that these communities should be getting their news and weather from those sources.”

IV. CONCLUSION

For the foregoing reasons, the County urges the Commission to expeditiously grant its Petition.

Respectfully submitted,

TITUS COUNTY COMMISSIONERS COURT


By John Fitch, Titus County Commissioner Precinct 2